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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/733,853	12/11/2003	Lyman O. Nielson	3358.2.1	9007
21552	7590	04/27/2005	EXAMINER	
MADSON & METCALF GATEWAY TOWER WEST SUITE 900 15 WEST SOUTH TEMPLE SALT LAKE CITY, UT 84101			HAN, JASON	
			ART UNIT	PAPER NUMBER
			2875	

DATE MAILED: 04/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/733,853	Applicant(s) NIELSON ET AL.	
	Examiner Jason M. Han	Art Unit 2875	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 December 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 3/25/2004.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

The following claims have been rejected in light of the specification, but rendered the broadest interpretation as construed by the examiner [MPEP 2111].

Claim Objections

1. Claim 11 is objected to because of the following informalities: Claim dependency is incorrect and should be depended upon Claim 10. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-5 and 8-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Ruskouski (U.S. Patent 5410453).
3. With regards to Claim 1, Ruskouski discloses a lighting apparatus including:
 - A ballast cover [Figure 10: (38A)];
 - A plurality of ballast cover holes [Figure 10: (40A)] in the ballast cover;
 - A circuit board [Figure 10: (42A)] having a plurality of light emitting diodes [Figure 10: (44A)], wherein the circuit board is positioned adjacent the ballast cover so that the plurality of light emitting diodes protrude through the plurality of ballast cover holes in the ballast cover [Figure 10].

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4. With regards to Claim 2, Ruskouski discloses a battery [Figure 10: (62A)] for supplying power to the plurality of light emitting diodes.
5. With regards to Claim 3, Ruskouski discloses a switching circuit [Figure 10: (60A); Column 4, Lines 53-59] for controlling illumination of the plurality of light emitting diodes.
6. With regards to Claim 4, Ruskouski discloses the switching circuit including:
 - A first portion for placing the switching circuit in communication with a wall switch/electrical junction box [Column 4, Lines 42-47];
 - A second portion for coupling the switching portion to the battery [Column 4, Lines 48-50]; and
 - A third portion for coupling the switching circuit to the plurality of light emitting diodes [Column 4, Lines 42-47].
7. With regards to Claim 5, Ruskouski discloses the switching circuit coupling the battery to the plurality of light emitting diodes if the switching circuit is not receiving AC voltage from an AC voltage source that is coupled to the wall switch, and wherein the switching circuit does not couple the battery to the plurality of light emitting diodes if the switching circuit is receiving the AC voltage from the AC voltage source [Column 4, Lines 60-65].
8. With regards to Claim 8, Ruskouski discloses a battery charging circuit for charging the battery [Column 4, Lines 48-50].
9. With regards to Claim 9, Ruskouski discloses the battery charging circuit including a first portion for coupling the battery charging circuit to an AC voltage source,

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and a second portion for coupling the battery charging circuit to the battery [Column 4, Lines 48-53].

10. Claims 12-16 and 19-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Ruskouski (U.S. Patent 5410453).

11. With regards to Claim 12, Ruskouski discloses a lighting apparatus with a ballast cover including:

- A housing having an attachment surface [Figure 10: (72)] and an illumination surface [Figure 10: (66)];
- A plurality of illumination surface holes [Figure 10: (40A)] in the illumination surface;
- A circuit board [Figure 10: (42A)] having a plurality of light emitting diodes [Figure 10: (44A)], wherein the circuit board is positioned adjacent the housing so that the plurality of light emitting diodes protrude through the plurality of illumination surface holes in the illumination surface [Figure 10]; and
- A fastening mechanism [Figure 10: (70, 72)] for securing the attachment surface of the lighting apparatus to the ballast cover [Figure 10: (66, 68)].

12. With regards to Claim 13, Ruskouski discloses a battery [Figure 10: (62A)] for supplying power to the plurality of light emitting diodes.

13. With regards to Claim 14, Ruskouski discloses a switching circuit [Figure 10: (60A); Column 4, Lines 53-59] for controlling illumination of the plurality of light emitting diodes.

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14. With regards to Claim 15, Ruskouski discloses the switching circuit including:

- A first portion for placing the switching circuit in communication with a wall switch/electrical junction box [Column 4, Lines 42-47];
- A second portion for coupling the switching portion to the battery [Column 4, Lines 48-50]; and
- A third portion for coupling the switching circuit to the plurality of light emitting diodes [Column 4, Lines 42-47].

15. With regards to Claim 16, Ruskouski discloses the switching circuit coupling the battery to the plurality of light emitting diodes if the switching circuit is not receiving AC voltage from an AC voltage source that is coupled to the wall switch, and wherein the switching circuit does not couple the battery to the plurality of light emitting diodes if the switching circuit is receiving the AC voltage from the AC voltage source [Column 4, Lines 60-65].

16. With regards to Claim 19, Ruskouski discloses a battery charging circuit for charging the battery [Column 4, Lines 48-50].

17. With regards to Claim 20, Ruskouski discloses the battery charging circuit including a first portion for coupling the battery charging circuit to an AC voltage source, and a second portion for coupling the battery charging circuit to the battery [Column 4, Lines 48-53].

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

18. Claims 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ruskouski (U.S. Patent 5410453) as applied to Claim 4 above, and further in view of Johnson et al. (U.S. Patent 4255746).

Ruskouski discloses the claimed invention as cited above, but does not specifically teach the switching circuit including a fourth portion for receiving an alarm signal from an alarm device (re: Claim 6), nor teaches the switching circuit coupling the battery to the plurality of light emitting diodes in response to receiving the alarm signal (re: Claim 7).

Johnson teaches, "Fire detector system 47 is connected across the terminals of battery 46. Upon detection of a fire condition, it provides a signal to alarm switch 48 which activates audible alarm 49. At the same time, a signal is provided to emergency light switch 45, causing auxiliary light 12 to be illuminated [Column 4, Lines 17-22]."

It would have been obvious to one ordinarily skilled in the art at the time the invention was made to modify the lighting apparatus of Ruskouski to incorporate the alarm device of Johnson so as to ensure greater safety to a user during emergency situations [e.g., fire].

19. Claims 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ruskouski (U.S. Patent 5410453) as applied to Claim 2 above, and further in view of Blackman (U.S. Patent Re. 36696).

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Ruskouski discloses the claimed invention as cited above, but does not specifically teach the circuit board including a battery test light coupled to the battery (re: Claim 10), nor teaches said battery test light protruding through one of the plurality of ballast cover holes (re: Claim 11).

Blackman teaches a circuit board [Figures 11-12: (310)] including a battery test light [Figures 11-12: (320)] coupled to the battery, and that protrudes through a hole [Figures 11-12: (308a, 308b)] in a cover.

It would have been obvious to one ordinarily skilled in the art at the time the invention was made to modify the lighting apparatus of Ruskouski to incorporate the battery test light of Blackman to help indicate to a user that the device is charging. Such indicator lights are commonly known in the art in warning a user of certain statuses of a device.

20. Claims 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ruskouski (U.S. Patent 5410453) as applied to Claim 15 above, and further in view of Johnson et al. (U.S. Patent 4255746).

Ruskouski discloses the claimed invention as cited above, but does not specifically teach the switching circuit including a fourth portion for receiving an alarm signal from an alarm device (re: Claim 17), nor teaches the switching circuit coupling the battery to the plurality of light emitting diodes in response to receiving the alarm signal (re: Claim 18).

Johnson teaches, "Fire detector system 47 is connected across the terminals of battery 46. Upon detection of a fire condition, it provides a signal to alarm switch 48

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which activates audible alarm 49. At the same time, a signal is provided to emergency light switch 45, causing auxiliary light 12 to be illuminated [Column 4, Lines 17-22].”

It would have been obvious to one ordinarily skilled in the art at the time the invention was made to modify the lighting apparatus of Ruskouski to incorporate the alarm device of Johnson so as to ensure greater safety to a user during emergency situations [e.g., fire].

21. Claims 21-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ruskouski (U.S. Patent 5410453) as applied to Claim 13 above, and further in view of Blackman (U.S. Patent Re. 36696).

Ruskouski discloses the claimed invention as cited above, but does not specifically teach the circuit board including a battery test light coupled to the battery (re: Claim 10), nor teaches said battery test light protruding through one of the plurality of illumination surface holes (re: Claim 11).

Blackman teaches a circuit board [Figures 11-12: (310)] including a battery test light [Figures 11-12: (320)] coupled to the battery, and that protrudes through a hole [Figures 11-12: (308a, 308b)] in a cover.

It would have been obvious to one ordinarily skilled in the art at the time the invention was made to modify the lighting apparatus of Ruskouski to incorporate the battery test light of Blackman to help indicate to a user that the device is charging. Such indicator lights are commonly known in the art in warning a user of certain statuses of a device.

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22. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ruskouski (U.S. Patent 5410453) as applied to Claim 12 above, and further in view of Leveraus (U.S. Patent 4216524).

Ruskouski discloses the claimed invention as cited above, but does not specifically teach a connector in the attachment surface of the housing that snaps into a ballast cover hole in the ballast cover, wherein wires connect the circuit board to the battery through the connector. The examiner makes note that Ruskouski teaches both the circuit board and battery within the ballast cover, and that it would have been obvious to one ordinarily skilled in the art to separate the two components.

Leveraus teaches, "System battery 9 is connected to circuit board through external wire to terminal pin 20 of integral connector 110 [Column 5, Lines 27-29]."

It would have been obvious to one ordinarily skilled in the art at the time the invention was made to modify the lighting apparatus of Ruskouski to incorporate the remote connection of the battery and circuit board, as taught by Leveraus, in order to facilitate easier replacement/services to the separated components.

23. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ruskouski (U.S. Patent 5410453) as applied to Claim 12 above, and further in view of Kim (U.S. Patent 4204272).

Ruskouski discloses the claimed invention as cited above, but does not specifically teach the fastening mechanism being an adhesive strip with a protective cover.

Kim teaches a fastening mechanism [Figure 2: (66)] being an adhesive strip with a protective cover [Figure 2: (68)].

It would have been obvious to one ordinarily skilled in the art at the time the invention was made to modify the lighting apparatus of Ruskouski to incorporate the adhesive strip with protective cover of Kim in order to provide strong, inexpensive attachment means between the attachment surface and the ballast cover.

24. Claims 25-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ruskouski (U.S. Patent 5410453).

25. With regards to Claim 25, Ruskouski discloses an illuminating apparatus providing:

- A ballast cover [Figure 10: (66, 68)], wherein the cover has a plurality of ballast cover holes [Figure 10: (40A)] and is attachable to a light fixture [Figure 10: (48A)]; and
- A circuit board [Figure 10: (42A)] including a plurality of light emitting diodes [Figure 10: (44A)], whereby the circuit board is positioned adjacent the ballast cover so that the plurality of light emitting diodes protrude through the plurality of ballast cover holes in the ballast cover [Figure 10].

Though Ruskouski does not specifically teach the method for providing illumination, it has been held that a method claim would have been obvious to one ordinarily skilled in the art provided the prior art teaches all cited structural limitations.

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26. With regards to Claim 26, Ruskouski discloses an apparatus illuminating a plurality of light emitting diodes when a light bulb within the light fixture is not illuminated [Column 1, Lines 17-43].

27. With regards to Claim 27, Ruskouski discloses an apparatus not illuminating a plurality of light emitting diodes when a light bulb within the light fixture is illuminated [Column 1, Lines 17-43].

28. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ruskouski (U.S. Patent 5410453) as applied to Claim 25 above, and further in view of Johnson et al. (U.S. Patent 4255746).

Ruskouski discloses the claimed invention as cited above, but does not specifically teach providing reception of an alarm signal from an alarm device, and in response to receiving said signal, illuminating the plurality of light emitting diodes.

Johnson teaches, "Fire detector system 47 is connected across the terminals of battery 46. Upon detection of a fire condition, it provides a signal to alarm switch 48 which activates audible alarm 49. At the same time, a signal is provided to emergency light switch 45, causing auxiliary light 12 to be illuminated [Column 4, Lines 17-22]."

It would have been obvious to one ordinarily skilled in the art at the time the invention was made to modify the lighting apparatus of Ruskouski to incorporate the alarm device of Johnson so as to ensure greater safety to a user during emergency situations [e.g., fire].

29. Claims 29-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ruskouski (U.S. Patent 5410453).

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30. With regards to Claim 29, Ruskouski discloses an illuminating apparatus providing:

- A ballast cover [Figure 10: (66, 68)];
- A housing having an attachment surface [Figure 10: (72)] and an illumination surface [Figure 10: (66)], wherein the illumination surface has a plurality of illumination surface holes [Figure 10: (40A)]; and
- A circuit board [Figure 10: (42A)] including a plurality of light emitting diodes [Figure 10: (44A)], whereby the circuit board is positioned adjacent the housing so that the plurality of light emitting diodes protrude through the illumination surface holes in the illumination surface [Figure 10], and where the attachment surface of the housing is secured [Figure 10: (70, 72)] to the ballast cover.

Though Ruskouski does not specifically teach the method for providing illumination, it has been held that a method claim would have been obvious to one ordinarily skilled in the art provided the prior art teaches all cited structural limitations.

31. With regards to Claim 30, Ruskouski discloses an apparatus illuminating a plurality of light emitting diodes when a light bulb within the light fixture is not illuminated [Column 1, Lines 17-43].

32. With regards to Claim 31, Ruskouski discloses an apparatus not illuminating a plurality of light emitting diodes when a light bulb within the light fixture is illuminated [Column 1, Lines 17-43].

33. Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ruskouski (U.S. Patent 5410453) as applied to Claim 29 above, and further in view of Johnson et al. (U.S. Patent 4255746).

Ruskouski discloses the claimed invention as cited above, but does not specifically teach providing reception of an alarm signal from an alarm device, and in response to receiving said signal, illuminating the plurality of light emitting diodes.

Johnson teaches, "Fire detector system 47 is connected across the terminals of battery 46. Upon detection of a fire condition, it provides a signal to alarm switch 48 which activates audible alarm 49. At the same time, a signal is provided to emergency light switch 45, causing auxiliary light 12 to be illuminated [Column 4, Lines 17-22]."

It would have been obvious to one ordinarily skilled in the art at the time the invention was made to modify the lighting apparatus of Ruskouski to incorporate the alarm device of Johnson so as to ensure greater safety to a user during emergency situations [e.g., fire].

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following references are cited to further show the state of art pertinent to the current application, but are not considered exhaustive:

US Patent 4206493 to Towne et al;

US Patent 5574423 to Vosika et al;

US Patent 6726348 to Gloisten;

US Patent 5406724 to Lin;

US Patent 5833350 to Moreland;

US Publication 2004/0100787 to Harris;

US Publication 2004/0100787 to Harris;

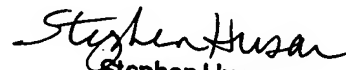
US Patent 6784357 to Wang.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason M. Han whose telephone number is (571) 272-2207. The examiner can normally be reached on 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JMH (4/18/2005)


Stephen Husar
Primary Examiner

Information Disclosure Statement

The information disclosure statement filed March 25, 2004 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because the Non Patent Literature was not in appropriate format (please note the highlighted area). It has been placed in the application file, but the information referred to therein has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609 ¶ C(1).